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## Minutes of the Commission Meeting Held on December 18, 2008 In the Stone Building 33 New York Avenue, Oak Bluffs, MA

### IN ATTENDANCE

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Commissioners: (P = Present; A = Appointed; E = Elected)

P James Athearn (E – Edgartown)	P Katherine Newman (A – Aquinnah)
P John Breckenridge (A – Oak Bluffs)	P Ned Orleans (A – Tisbury)
P Christina Brown (E - Edgartown)	P Jim Powell (A – West Tisbury)
P Peter Cabana (A – Tisbury)	P Doug Sederholm (E – Chilmark)
P Martin Crane (A – Governor Appointee)	- Susan Shea (A – Aquinnah)
P Mimi Davisson (E – Oak Bluffs)	P Linda Sibley (E – West Tisbury)
P Carlene Gatting (County Appointee)	P Richard Toole (E – Oak Bluffs)
- Mark Morris (A – Edgartown)	P Andrew Woodruff (E – West Tisbury)
P Chris Murphy (A – Chilmark)	

Staff: Mark London (Executive Director), Bill Veno (Senior Analyst), Paul Foley (DRI ), Bill Wilcox (Water Resource Planner)

The meeting was called to order at 7:50 p.m

### 1. MUCKERHEIDE HOUSING: DRI NO. 615 – PUBLIC HEARING (CONT.)

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Commissioners present: J. Athearn, J. Breckenridge, C. Brown,, P. Cabana,, C. Murphy, J. Powell, D. Sederholm, L. Sibley, R. Toole, A. Woodruff

For the applicant: Donald Muckerheide, Trustee, Violet Realty Trust

**Richard Toole** reopened the continued public hearing. The proposal has been fundamentally revised, and is now to demolish the existing structure and to build a 12,672 square-foot, 66'x64', three-story building with twelve 784 sq. foot units, in the B1 commercial zone.

**Mark London** explained that this is basically a new scheme.

- The proposal is to demolish the existing building and to build a new structure of twelve units with increased parking.
- He suggested that the applicant give a presentation of the new scheme and then Commissioners and the applicant could discuss the merits of continuing with the former application or by consider this as a new application.

#### 1.1 Applicant's Presentation

**Donald Muckerheide** outlined the new proposal.

- There are four two-bedroom units per floor with no common sidewalls.
- The footprint is decreased by about 600 sq. feet.
- All the elements of water control and wastewater are the same.
- The fundamental concept of providing market rate residential housing with no transient rental housing is the same.
- Parking is increased.
- The building is squared up to Duke's County Avenue.
- The mansard roof hides the roof deck, which is a good place to put solar collectors.
- It's an efficient modern building with a style that's reminiscent of Cottage City Era of the 1800s.
- For the affordable housing component, the offer is to pay 20% of the assessed value. He is asking that this be waived if 75% of the units are sold as year-round units so he can apply that money to deal with costs of demolition.
- The basic plan has been checked by a Massachusetts building code consultant.
- He believes it's a good-looking building and is in proper proportion and scale.

There was a discussion of whether to continue with the existing DRI application.

- **Commissioners** noted that continuing with this DRI means that only the presently eligible Commissioners would be eligible to vote, and that after the first of the year, there would only be nine Commissioners eligible to vote, a bare quorum. If anything happens to any of the Commissioners such as travel or illness, we would not be able to continue. By withdrawing without prejudice and resubmitting the application, the applicant would have a full Commission available to review and vote on his application. The Commission would not charge a new application fee other than out of pocket costs.
- **Donald Muckerheide** said he'd rather continue with the nine Commissioners. If a problem arises, he'll withdraw and resubmit. A delay of a few weeks wouldn't be too much of an issue.
- **Mark London** polled Commissioners. It appears that none of the nine eligible Commissioners will be going away for more than two weeks.

## **1.2 Public Comment**

**Mimi Davisson** asked if drawings have been available. The public needs an opportunity to see the design.

## **1.3 Commissioner Questions**

**Jim Athearn** asked about the other three facades and construction materials. **Donald Muckerheide** explained that all four facades are similar, except that on the Dukes County Avenue side, there is a full porch. The siding is vinyl with window frames. Roof is asphalt and shingled, presumably. There are no chimneys.

**Donald Muckerheide** added that the heat is propane; hot water is baseboard on demand gas heaters. Each condo will have a small unit that fits in a closet and is 100% self-contained to the unit. Propane tanks are in groups of three around the perimeter. Solar could heat center hallways.

**John Breckenridge** recommended that staff take previous answers and apply them to this plan.

**Mark London** said Paul Foley could work with Don to have a clean version of the plan and offers. He asked Commissioners to submit questions before New Years. He also asked members of the press to let community know that a substantially different proposal is now being reviewed by the MVC.

**Peter Cabana** suggested that the applicant check out federal credits for photovoltaic. There are incentives.

**Chris Murphy** asked the applicant to clarify the trash disposal plan, the placement of the gas containers and the internal layout of the building.

**Don Muckerheide** explained that hall common areas are lit by windows. There will be a full basement unless it's economically not possible. The basement will be used for storage.

**Richard Toole** continued the hearing to January 8<sup>th</sup>.

## **2. BRADLEY SQUARE: DRI NO. 612M – MODIFICATION REVIEW**

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*Commissioners present:* J. Athearn, J. Breckenridge, C. Brown,, P. Cabana, M. Crane, M. Davisson, C. Gattling, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, L. Sibley, R. Toole, A. Woodruff

*For the applicant:* Bob Wheeler; Richard Leonard (Chair of Island Housing Trust)

**Doug Sederholm** explained that Bradley Square has made some modifications to the proposal. Counsel feels emphatically that, based on the nature of the application, the Commission should have a public hearing. This is for procedural reasons, not on the merits of the changes.

**Bob Wheeler** said he is retiring from the process, as he is retiring from the bank. He thanked Commissioners for their attention and concerns.

- They've come a long way. The process between the proponents and a group of concerned citizens was very positive. It set a standard for how disagreements about projects like this can be resolved.
- The proponents incorporated all of the changes that the combined group came up with.
- They are in the process of discussing changes with the Zoning Board of Appeals in Oak Bluffs which has come up with conditions.
- They're hoping they can move to a quick conclusion. The delay is costing \$5,000 a month. They hope they can get moving with approvals and start construction.

**Richard Leonard**, Chair of Island Housing Trust, explained that he became more involved in the presentation and design as it came in front of the Oak Bluffs Zoning Board of Appeals.

- It became clear that some people thought they hadn't had a chance to express themselves about the project. They formed a committee of concerned citizens and groups. He outlined the concerns that were raised.
  - Lack of onsite parking.
  - Massing.
  - Throughway/service road.
  - Potential for use of Denniston sanctuary and outside areas.

- Traffic
- He explained the modifications that were agreed upon through a seven-week, professionally-facilitated process.
  - The Denniston Building will remain at its current location.
  - On site parking is increased from 11 to 20.
  - The throughway is eliminated.
  - Some green space between buildings was eliminated.
  - The third floor was removed from each of the new buildings, reducing them to 28 feet.
  - Total square footage of all three buildings was reduced from 12,582 sq. feet to 10,887 sq. feet.
  - The number of affordable units was reduced from nine to eight, but the number of two-bedroom units was increased. The number of affordable bedrooms was not reduced.
  - The affordability restrictions for all eight residential units are included.
  - The market rate housing is restricted to the business-zoned section of the site.
  - One two-story building has two two-bedroom units on the first floor and two one-bedrooms on the second floor, all deed restricted at 140% or less of AMI
  - The Denniston Building will still have the preserved sanctuary, the NAACP offices, and, on the second floor a two-bedroom affordable unit.
  - The Bradley One Building is two stories high, but a little wider. The overall length is 73 feet approximately.
  - The first floor has two live/work market rate units with a small commercial space at the front. The third unit is all commercial and market rate. The second story has three affordable one-bedroom units. One unit is split between the first and second floor.
  - The exterior staircases on the back of the buildings were removed, reducing massing.
  - Further limiting of use of the Denniston Sanctuary is included. There will be no more than two evenings per week of gatherings of more than thirty people. Outside gatherings will be limited to those of residents, such as a birthday party.
  - Green spaces are nice but parking is necessary.
  - The changes met not only with the approval of the representatives of the committee, but also their constituent groups and voters at Town Meeting.

***Christina Brown moved, and it was duly seconded, that the Commission finds that the modification is a significant change and requires a public hearing.***

- **Linda Sibley** said practically every affordable project has been subject to some attempt at blocking through the courts. She would not want the Commission to be an excuse for a lawsuit. It is a big change. The Commission needs to give the public and opportunity to review the changes.
- **Mark London** reminded everybody that the discussion at the public hearing is only on the modifications, not on the overall merits of the original project which has already been approved by the Commission..

***A voice vote was taken. In favor: 14. Opposed: 0.. Abstentions: 1. The motion passed.***

### **3. MARTHA'S VINEYARD SAVINGS BANK: DRI NO. 612M – MODIFICATION REVIEW**

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Commissioners present: J. Athearn, J. Breckenridge, C. Brown,, P. Cabana, M. Crane, M. Davisson, C. Gatting, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, L. Sibley, R. Toole, A. Woodruff

For the applicant: Bob Wheeler, vice-president

**Doug Sederholm** explained the modification. The Commission approved a project on the West Tisbury site, including the demolition of the existing building. The modification proposes donating the existing building and moving it to the Nobnocket lot, also a DRI property, until it can be moved permanently.

**Bob Wheeler** explained the proposal.

- The original thought had been to move the building to the back of the lot and build affordable housing, but zoning wouldn't allow for that move.
- Island Affordable Housing has accepted the house as a donation but doesn't yet have a permanent site for it.
- The bank will need to move and store it at Nobnocket while it waits for a permanent site.
- The proposal is to move the building to the bank's lot and store it at the back of the lot.

**Christina Brown moved, and it was duly seconded, that the proposal is a minor modification to both DRIs and does not require a public hearing. A voice vote was taken. In favor: 14. Opposed: 0. Abstentions: 1. The motion passed.**

**Christina Brown moved, and it was duly seconded, to modify each DRI to include this change. A roll call vote was taken. In favor: J. Breckenridge, C. Brown,, P. Cabana, M. Crane, M. Davisson, C. Gatting, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, L. Sibley, R. Toole, A. Woodruff. Opposed: None. Abstentions: J. Athearn. The motion passed.**

**Christina Brown** said that apparently, there are more houses that can be moved than there is land available. She thinks it's terrific that the bank is willing to store the house and she hopes that people think creatively about storing houses.

**Doug Sederholm** thanked Bob Wheeler for all the hard work he's done bringing applications before the Commission.

### **4. AIRPORT MOBIL CARWASH : DRI NO. 441M – MODIFICATION REVIEW**

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Commissioners present: J. Athearn, J. Breckenridge, C. Brown,, P. Cabana, M. Crane, M. Davisson, C. Gatting, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, L. Sibley, R. Toole, A. Woodruff

**Richard Toole** explained the proposal.

- Airport Mobil came before the Commission to be built.

- The current proposal is to heat waste oil for heat which would require installing a 10' x 14' mechanical room with a tank.

**Bill Wilcox** said, when the approval was made, the applicant was supposed to come in with a monitoring plan, but it was never submitted.

- Joe Forns is now putting together a plan showing how they are going to monitor, and this is the plan they'll commit to.
- They have been monitoring but there were some procedural issues on reporting and what would trigger a re-test.
- Now the parameters and procedures are clear. It's a much clearer process, with results reported to Edgartown Board of Health,, Airport Commission, and Commission.

The applicant explained that they've always done the process of the testing, but some of the parameters weren't clear.

**Mark London** suggested that the Commission could approve the modifications and make the certificate of occupancy contingent on the plan being submitted.

**John Breckenridge** asked whether retail food being available had been signed off on.

- The applicant explained that he has signatures from the Commission from about eight years ago approving the sale of retail food.

**Doug Sederholm** outlined the proposal.

- This is an application to build a 140 square foot shed for storage of a tank of waste oil and a heating unit.
- The question is whether the proposal is sufficiently significant to require a public hearing.
- The monitoring procedure is 90% complete.
- The Commission could approve the modification with the stipulation that the applicant wouldn't receive a certificate of occupancy until the monitoring procedure is complete.

***Linda Sibley moved, and it was duly seconded, that the proposal is a minor modification and does not require a public hearing. A voice vote was taken. In favor: 15. Opposed: 0. Abstentions: 0 The motion passed.***

The applicant added that Safety Cleaning Company picks up waste oil. If he were to come up with a central collection point, Safety would be happy to pick it up for free for the public. Currently, there is waste oil collection at the transfer facility a couple of times a year.

***Linda Sibley moved, at it was duly seconded, that the Commission approve the modification as presented. A roll call vote was taken: In favor: J. Athearn, J. Breckenridge, C. Brown,, P. Cabana, M. Crane, M. Davisson, C. Gatting, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, L. Sibley, R. Toole, A. Woodruff. Opposed: None. Abstentions: None. The motion passed.***

## **5. IGRAJA EVANGALICA : DRI NO. 619 – WRITTEN DECISION**

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Commissioners present: J. Athearn, J. Breckenridge, C. Brown,, P. Cabana, M. Crane, M. Davisson, C. Gatting, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, L. Sibley, R. Toole, A. Woodruff

Commissioners reviewed the written decision and made the following changes.

- line 189            add . . is consistent in character with neighboring institutional buildings.
- line 455            The line should include a quantitative list. Commissioners defer to staff to complete the list and resubmit it by January 31<sup>st</sup>.

**John Breckenridge moved, and it was duly seconded, to approve the written decision with the above changes. A roll call vote was taken. In favor: J. Athearn, J. Breckenridge, C. Brown,, P. Cabana, , M. Davisson, M. Crane, C. Gatting, N. Orleans, J. Powell, D. Sederholm, L. Sibley, R. Toole. Opposed: None. Abstentions: C. Murphy, K. Newman, A. Woodruff.. The motion passed.**

## **6. ELECTION OF OFFICERS**

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Commissioners present: J. Athearn, J. Breckenridge, C. Brown,, P. Cabana, M. Crane, M. Davisson, C. Gatting, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, L. Sibley, R. Toole, A. Woodruff

**Linda Sibley** thanked the outgoing chair who's done a wonderful job of wrangling Commissioners and making the group move more or less in sync.

**Andrew Woodruff** said if it weren't the policy, he would certainly want to renominate Doug Sederholm.

**Doug Sederholm** commented.

- He hasn't enjoyed all the preparation and phone calls, but he's enjoyed chairing the meetings. He's very confident that the incoming chair will do as well or better.
- He thanked outgoing members Susan Shea and Mark Morris, and Richard Toole and Mimi Davisson.
- He reminded everyone that each Commissioner needs to be sworn in at Town Hall after January 1<sup>st</sup> and before the meeting on January 8<sup>th</sup>.
- His unfinished business includes evaluation of the executive director and DRI enforcement. He hasn't been formally evaluated. He hopes that the DRI enforcement committee continues to develop procedures for enforcement.

The nominating committee reported that the proposed slate of officers is Christina Brown as chair, Chris Murphy as vice chair, and Ned Orleans as clerk/treasurer.

**Linda Sibley moved, and it was duly seconded, that nominations be closed. A voice vote was taken. In favor: 15. Opposed: 0. Abstentions: 0. The motion passed.**

- **Mimi Davisson** said she'd like hear a short statement from each nominee about how they view the Commission or the position.
- **Chris Murphy** said he didn't seek the position but occasionally it needs to be done, hopefully not too often.
- **Ned Orleans** said he's enjoyed it so much he wanted to continue.

- **Christina Brown** said she'll make an attempt to continue in the fine tradition of chairing with objectivity and information and inclusiveness. She wants the Commission to stay as open as possible. She will be careful to continue in the tradition of other chairs who have served wisely and sometimes spectacularly. All did good things.

***A voice vote was taken on the nominated slate. In favor: 15. Opposed: 0. Abstentions: 0. The motion passed.***

## **6. OTHER**

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**Mark London** gave a brief report on the work of the DRI Compliance Committee.

- The committee began work on developing new procedures and how cases of non-compliance could be dealt with.
- The committee also began work on clarifying wording in DRI decisions and how make sure that compliance issues are clear to applicants and town officials.
- They've brainstormed lists for how to deal with cases of non-compliance and how to interact with planning boards and building inspectors.

The meeting adjourned at 9:25 p.m.

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Date

\_\_\_\_\_  
Clerk-Treasurer

\_\_\_\_\_  
Date